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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/554,424	11/06/1995	LEONARDUS H. T. VAN DER PLOEG	19338DA	7967

29847 7590 05/20/2003

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[REDACTED] EXAMINER

NOLAN, PATRICK J

ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 05/20/2003

37

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 08/554,424	Applicant(s) Van Der Ploeg
	Examiner Patrick J. Nolan	Art Unit 1644
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
Period for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Mar 17, 2003</u>		
2a) <input type="checkbox"/>	This action is FINAL.	2b) <input checked="" type="checkbox"/> This action is non-final.
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.		
Disposition of Claims		
4) <input checked="" type="checkbox"/> Claim(s) <u>24-29</u> is/are pending in the application.		
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/>	Claim(s) _____	is/are allowed.
6) <input checked="" type="checkbox"/> Claim(s) <u>24-29</u>	is/are rejected.	
7) <input type="checkbox"/>	Claim(s) _____	is/are objected to.
8) <input type="checkbox"/>	Claims _____	are subject to restriction and/or election requirement.
Application Papers		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p>		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
Priority under 35 U.S.C. §§ 119 and 120		
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____ 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
*See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).		
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
Attachment(s)		
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____		

Art Unit: 1622

Detailed Action

1. Claims 24-26 and newly added claims 27-29 are pending
2. The request for a continued prosecution application (CPA) under 37 CFR 1.53(d) filed on [1] is acknowledged. 37 CFR 1.53(d)(1) was amended to provide that the prior application of a CPA must be: (1) a utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, (2) a design application, or (3) the national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000. See *Changes to Application Examination and Provisional Application Practice*, interim rule, 65 Fed. Reg. 14865, 14872 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 52 (Apr. 11, 2000). Since a CPA of this application is not permitted under 37 CFR 1.53(d)(1), the improper request for a CPA is being treated as a request for continued examination of this application under 37 CFR 1.114. See *id.* at 14866, 1233 Off. Gaz. Pat. Office at 48.
3. Claims 24-29 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
In claims 24-26, the word modulates is indefinite as a compound can not increase and decrease the sodium channel simultaneously. Correction with insertion of -- a ligand that either increases or decreases--, will obviate the rejection in base claims 24-26.
4. Applicant is notified the Examiner, Interviewed the case with Applicant's representative, Joseph Fischer, on 5-19-03, to discuss the prosecution of the case.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Nolan whose telephone number is (703) 305-1987. The examiner can normally be reached on Monday through Thursday from 9:30 am to 4:30 pm.
6. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at (703) 305-3973. The FAX number for our group, 1644, is (703) 305-7939.

Pat Nolan
Patrick J. Nolan, Ph.D.
Primary Examiner, Group 1640
May 19, 2003